FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of)		HEGEIVED
Amendment of Section 72 202(b))	MM Docket No. 98-	NOV 3 0 1998
Amendment of Section 73.202(b),	,		.000
Table of Allotments,)	RM-	FEDERAL COMMUNICATIONS COMMISSION
FM Broadcast Stations)		OFFICE OF THE SECRETARY
(Pacific Junction, Iowa))		

To: Chief, Allocations Branch

PETITION FOR RULE MAKING

Warga Broadcasting L.L.C. ("Warga"), by its attorney and pursuant to § 1.401, et seq., of the Commission's Rules, hereby petitions the Commission to amend the FM Table of Allotments set forth in § 73.202(b) of the Rules to allot Channel 299A to Pacific Junction, Iowa, as that community's first local aural service.

In the event that this Petition is granted and the requested allotment is made, Warga hereby states its firm intention to file an application for the Pacific Junction FM station.

In support whereof, the following is shown.

Pacific Junction, Iowa

Pacific Junction (1994 estimated population, 619) is one of eight incorporated communities in Mills County, Iowa, a non-metropolitan county in southwest Iowa. Pacific Junction is officially designated a city by the State of Iowa. According to the 1990 Census, the population of Pacific Junction was 548. In fact, the current population exceeds the 1994 estimate, but no 1998 population figures are available.

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Despite its comparatively small population Pacific Junction possesses all the attributes which the Commission traditionally considers as constituting a community. As documented in the Iowa State University, University Extension, September 1997 "Data for Decision Makers - Mills County," annexed hereto as Ex. 1, p. 1, 1 Pacific Junction was the only one of Mills County's eight communities to increase in population between 1980 and 1990. Its current rate of population increase remains the highest of any of the eight communities in the County. Moreover, with the new commencement of operations just outside Pacific Junction of Bunge Corp., one of the Midwest's largest soybean processors, development of new housing and business within the City, as well as in neighboring communities, has already commenced. Bunge Corp. employs over 100 persons and is expected to greatly increase the growth and prosperity of Pacific Junction.

Besides being an incorporated and census-designated city, Pacific Junction enjoys the other qualities which typify a community. It is governed by an elected mayor and five elected council members. It has officially defined boundaries (see Ex. 1, p. 2) a City Hall and adjacent Community Center, and a full-time City Clerk, who has the designated responsibility for overseeing community maintenance needs.

Pacific Junction has its own Planning and Zoning Board, with five local residents appointed by Mayor Fred Nuss, and its own City Betterment Committee, with 10-12 local members. Pacific Junction has an alphabetical telephone directory and its own telephone number prefix (Pacific Junction residents exclusively have telephone numbers beginning with 622 in area code 712) (Ex. 1, pp. 3-5) a Pacific Junction Post Office (the Pacific Junction Zip

¹ The materials comprising Ex. 1 were provided by Duane Fleming, City Clerk of Pacific Junction.

Code is 51561) and its own Pacific Junction voluntary fire and rescue squad, incorporated as Emergency Service, Inc. and composed of 17 firemen and eight rescue personnel who serve and protect the lives and property of nearly 2000 persons within a radius of approximately 175 square miles.

While Pacific Junction shares law enforcement and schooling facilities with other neighboring communities, it has two local churches within city limits (the Full Faith Church and the Pacific Junction Methodist; see Ex. 1, p. 6), and a number of local businesses and industries (including: nationally known Kiewit Construction Co., a switching facility for the Burlington and Northern Railroad (and the source of the City's name, Pacific Junction), the CoOp Farm Service Company, Pacific Junction Antique Mall and Junction Restaurant, J & J Antiques, United Suppliers Fertilizer Distribution Plant, the Bluff View Cafe, Motel and Amoco Station, the Pacific Junction Branch of Glenwood State Bank, and another local pub, the Junction Cafe), which employ numerous persons residing both in Pacific Junction and elsewhere. The Iowa State Department of Transportation maintains its Highway Division Maintenance Garage in Pacific Junction, employing 15 persons there.

Additional compelling evidence of Pacific Junction's status as a community is seen in the remarkable variety of local events conducted throughout the year and which serve to bring residents of Pacific Junction closer together, perpetuating and strengthening the identity of this small, but definitely burgeoning, City. "Bingo Night" takes place every Thursday in the Pacific Junction Community Center, with the proceeds going to support the city's fire and rescue squad. Every other week, "P.J. Jam Session" is held at the Community Center; the

average attendance for this event exceeds 100. Pacific Junction's annual "Whistlestop Days," another event arising from the community's longtime status as a railroad switching terminus, occurs each autumn, includes a parade and highly popular community celebration, successfully maintaining local civic pride. According to the City Clerk, weekly square dancing is set to begin at the Pacific Junction Community Center in January 1999.

In sum — in addition to the fact of its incorporation as an Iowa city and its official U.S. Census designation — the aforementioned objective indicia of Pacific Junction's community status, and the supporting evidence, affirm that the people of Pacific Junction, through their locally elected city government, their churches, businesses and industries, and their regular and well-attended local civic events, "subjectively view themselves as functioning as a community and belonging to it." *Mighty-Mac Broadcasting Co.*, 58 RR 2d 599, 603 ¶ 7(1985). It can thus be easily seen that Pacific Junction "has sufficient attributes of 'community,' such as political, commercial, social, and religious organizations and services serving the community," and that "there is a sense of unity and and involvement in community concerns as shown by evidence that 'the residents function as and conceive of themselves as a community around which their interests coalesce." *Id.*, citing FM Channel Assignments (Vimville, Mississippi), Report and Order, 55 RR 2d 256, 258 (MM Bur. 1983); and FM Channel Assignments (North Naples, Florida), 41 RR 2d 1549 (B Bur. 1977).

It should therefore be concluded that Pacific Junction, Iowa, is a community as contemplated by § 307(b) of the Communications Act of 1934, as amended, and, therefore, is fully entitled to have its own local radio station.

Technical Considerations

Annexed hereto as Ex. 2 is the Engineering Exhibit of Mullaney Engineering, Inc.

The Engineering Exhibit affirms, based upon a channel allocation study, that Channel 299A can be allotted to Pacific Junction in conformance with all Commission rules and policies as its first local broadcast service.

Again, Warga affirms that in the event this Petition is approved, it intends to file an application to serve Pacific Junction on Channel 299A.

Conclusion

WHEREFORE, for the foregoing reasons, the instant Petition for Rule Making should be granted and § 73.202(b) of the Commission's Rules amended to allot Channel 299A to Pacific Junction, Iowa, as its first local aural service.

Respectfully submitted,

WARGA BROADCASTING L.L.C.

By:

Lawrence Bernstein

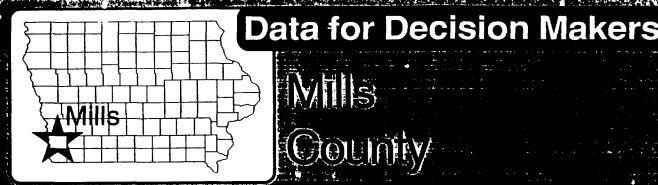
Its Attorney

LAW OFFICES OF LAWRENCE BERNSTEIN 1818 N Street, NW Suite 700 Washington, D.C. 20036 (202) 296-1800

Attachments

November 30, 1998

Exhibit 1 Pacific Junction, Iowa



Population

Mills County is a non-metropolitan county in southwest Iowa. Mills County is composed of eight incorporated communities and their surrounding rural areas. From 1980 to 1990, Mills County's population decreased 1.5 percent. From 1990 to 1994, its population increased 3.4 percent.

1. Population of Mills County

City	<u>1980</u>	1990	1994 <u>estimate</u>
Emerson	502	476	425
Glenwood	5,280	4,960	5,058
Hastings	215	187	207
Henderson	236	206	215
Malvern	1,244	1,210	1,178
Pacific Junction	511	548	619
Silver City	291	252	266
Tabor *	1,088	994	1,014
Balance of Cour	nty (n.a.)	5,270	5,581
County Total	13,406	13,202	13,645
State Total	2,913,808	2,776,755	2,830,779

^{*} Indicates municipality crosses county border; figure is total population.

Population Profile

Age distribution

Compared to the state, Mills County had a higher proportion of young people (19 or younger), and a lower proportion of older people (age 65+) in 1990.

2. Age distribution of population (1990)

	Mills County		S	tate
	<u>Population</u>	<u>%</u>	<u>Population</u>	<u>%</u>
Total	13,202	100.0	2,776,755	100.0
Age 0-19	3,949	29.9	806,174	29.0
Age 20-44	4,854	36.8	1,020,359	36.7
Age 45-64	2,587	19.6	524,116	18.9
Age 65-84	1,604	12.1	370,851	13.4
Age 85 +	208	1.6	55,255	2.0

For more information contact

The Mills County Extension Office

Laverne Obrecht, County Extension Education Director 103 East 5th Street, P.O. Box 430 Malvern, Iowa 51551

Phone: (712) 624-8616 Fax: (712) 624-8228

E-mail: mills@exnet.iastate.edu

Your Extension community development specialist

Wayne Kobberdahl Southwest Iowa 103 East 5th Street, P.O. Box 430 Malvern, Iowa 51551

Phone: (712) 624-8616 Fax: (712) 624-8228

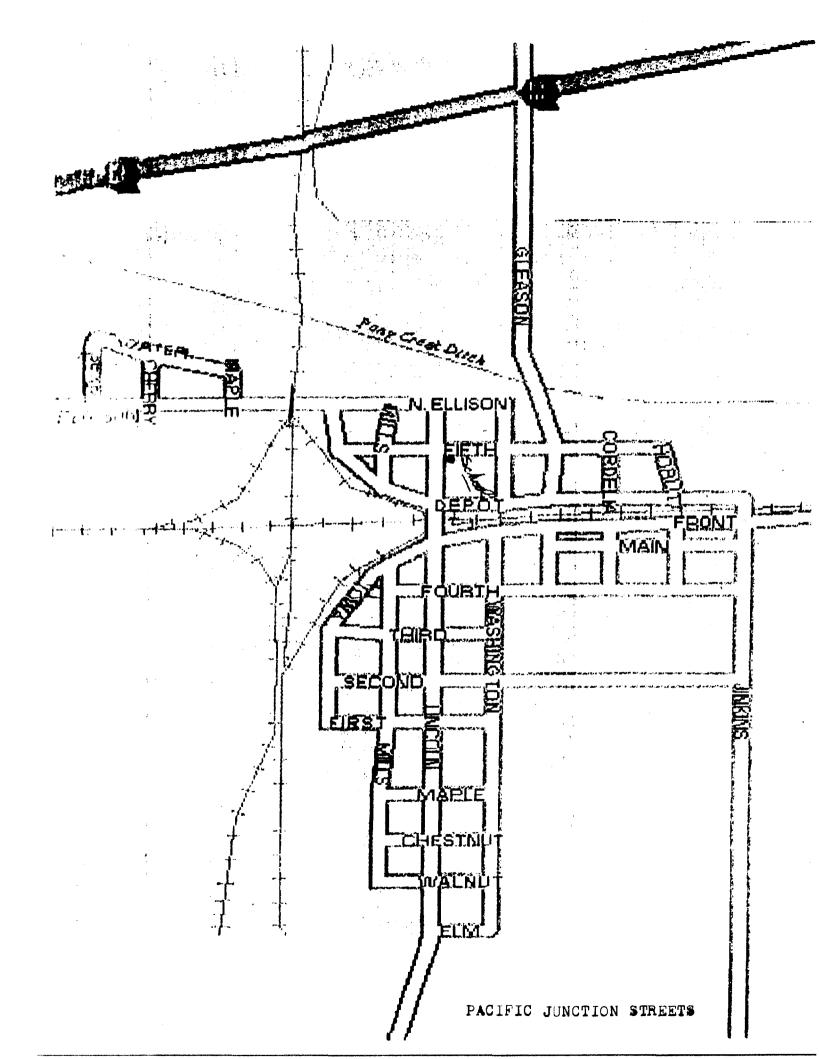
E-mail: x1kobber@exnet.iastate.edu

IOWA STATE UNIVERSITY

University Extension

Ames, Iowa

DD-65 | Revised | September 1997



PACIFIC JUNCTION, IOWA 5156

AREA CODE 712

Alphabetical Telephone Directory

•		Cunningham Mike
Α		Curtis Jack
Aistrope Kip & Lori 62646-195th	622_8364	Curtis John 405 Gleason
Allman Lois 802 Washington Av	622-8125	
Ambulance Service		D
Anderson Dwight 56632-180th St	622-8484	
Anderson Dwight 56632-180th St	622-8451	Dashner Christopher 64227-19
		Davidson Cindy 706 E Lincoln
Anderson Kyle 18145 Hammond Av	622–8352	Davis Francis Mrs 63696-195th
Anderson Mike & Pat	CO2 00FF	Davis Gary 63362-195th St Dean John 57237-175th
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Armstrong Cecil 59916-210th St	622-3532	Delashmutt Don Sr 20244 Jink
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Aubry Alva 303 Depot St	622-8475	Dodge Donald 60014 Karns Rd
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Barker Floyd 20046 Nash Av	022-0202 622_8421	Eledge John Jr Mintle Landing
Bartles Mary 705 Depot St	622-8262	Etter Arkey
Baucom Marjorie 105 Ellison St	622-8103	Etter Kenny 200 Cordelia
Beason Joy 501 -4th St	622–8393	Evans Denise 900 Mills
Benscoter Steve 17757 Kane Av	622-8287	
Bents Rodney & Judy		F
200 Washington Av	622-8444	
Beutel Dan 905 Mills	622-8168	Farm Service Co
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Grantham Ralph 203 Depot S Gray Deloris 701 Mills Av....... Green Allen E 301 Gleason Av Green Howard 601 Depot... Gregg Donald 205 Gleason Av Greyhound Pets Of America

Guest Daryl & Mary 60602-1

Hansen Hugh 58540-195th S



KANSON DIRECTORY Midtown Bldg Newton..... Toll Free.....800

Harless Bernard 402 Hoblitt A Harmon J L Sr 402 Hoblitt Av Harmon Joe Jr 602 Main..... Harris Sylvia 303 Mills Av....... Hastie Sharon 307 Cordelia.... Hatcher P 403 Depot.....Hauser Peggy 603 Lincoln.....Heatan Steve 59951-210th S
Hellbusch Charles 61538-195 Henriksen Robert 700 Lincoln Hilgerson M 301 Mills. Homan R E 603-4th St Horn Steven 605 Mills.. Howser Steven 503-2nd St Hoyt Janet 703-4th St. Huebner Henry & DeAnn 706 Hunter Geo 207 Allison St...... Hunter Jerry 201 S Ellison St...

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Transportation Department (Highway Division Mainten

& J Antiques 1-29 & Glenwood Exit.. Janssen Leanna 103 Ellison..... Johnston Dick & Rita 19283 F

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Zehner Wm W & Roseanne 17717 Kane Av...... Zillmer Paula 57590-175th St

Zook Phillip & Amanda Cook

503 Washington Av.,

.622-8244

622-8292

Tackett Matthew & Charlene

1000 Mills.....

500 S Main Sidne

DeBruce Grain 210 South_ Deter Jennifer RR 1

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CREEK

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Ettleman Howard RR 1 Ettleman Leo & Patsy RR 1...

FIRE TO REPORT

G

GTE Residential Service New Service-Changes To Existin Toll Free

Glenwood Area Church List

	Church	Name	Address	City	State	Zip	Phone
1	Bible Baptist	Rev. Patrick Marlowe	605 South Hazel	Glenwood	IA	51534	527-3806
2	Calvary Baptist	Rev. Lonney Hulsey	56456 US Hwy. 275	Gienwood	IA	51534	527-9808/3951
3	Evangelical Free	Pastor Mark Smeltzer	606 Coolidge	Glenwood	IA	51534	527-5715/4250
4	Family Worship Center	Pastor Kevin Morse	908 Main	Malvern	IA	51551	624-9091
5	First Assembly of God	Pastor Spencer Keroff	201 South Locust	Glenwood	!A	51534	527-3911
6	First Baptist	Rev. Richard Wheatley	212 North Vine	Glenwood	IA	51534	527-4382/4154
7	First Christian	Rev. Grant Wiley	202 Vine	Glenwood	IA	51534	527-9181/3312
8	First Church Nazarene	Pastor Donald Maynard	401 South Hazel	Glenwood	IA	51534	527-4210/4378
9	First Congregational	Rev. Renae Koehler	407 Second Street	Glenwood	IA	51534	527-9424/9800
10	Full Faith Church	Pastor Howard Green	801 Front	Pacific Junction	IA	51571	622-8369
11	Glenwood Foursquare	Pastor Jerry Farney	212 North Locust	Glenwood	IA	51534	527-5383
12	Glenwood State Hospital School	Rev. Jack Kouth	711 South Vine	Glenwood	IA	51534	527-4811 x551
13	Grace United Methodist	Rev. Gerald McGee	112 North Walnut	Glenwood	IA	51534	527-4607/4714
14	Hillsdale Methodist	Rev. Mike Owens	•	Silver City	IA	51571	525-1057
15	Holy Rosary Catholic	Rev. Paul Monahan	24116 Marian	Glenwood	IA	51534	527-5211/9115
16	Latter Day Saints	Pres. William Rickabaug	5 North Vine	Glenwood	IA	51534	527-9227/629-5425
17	P.J. Methodist	Rev. Mike Owens	Main Street	Pacific Junction	IA	51561	622-8123
18	Seventh Day Adventist	Rev. Chris Barr	56626 US Hwy. 275	Glenwood	IA.	51534	527-3430/525-1086
19	Silver City Bible Fellowship	Pastor Ken McIntyre		Silver City	IA	51571	525-1028
20	Silver City Methodist	Rev. Mike Owens	PO Box 127	Silver City	IA	51571	525-1179
21	St. John Episcopal	Rev. Nancy Shank	111 North Vine	Glenwood	IA .	51534	527-2971
22	St. John Lutheran	Rev. Stephany Sanborn	100 6th Street	Mineola	IA	51554	526-2268/2124
23	Trinity Lutheran	Rev. Edwin Williams	512 2nd Street	Glenwood	IA	51534	527-4667

Exhibit 2 Engineering Exhibit of Mullaney Engineering, Inc.

MULLANEY ENGINEERING, INC.

9049 SHADY GROVE COURT GAITHERSBURG, MD 20877

ENGINEERING EXHIBIT EE-RM:

WARGA BROADCASTING L.L.C. PACIFIC JUNCTION, IOWA ALLOTMENT OF FM CHANNEL 299A

NOVEMBER 20, 1998

ENGINEERING STATEMENT IN SUPPORT OF A
PETITION FOR RULE MAKING
TO AMEND
THE FM TABLE OF ASSIGNMENTS



MULLANEY ENGINEERING, INC.

ENGINEERING EXHIBIT EE-RM:

WARGA BROADCASTING L.L.C. PACIFIC JUNCTION, IOWA ALLOTMENT OF FM CHANNEL 299A

TABLE OF CONTENTS:

- 1. Declaration of Engineer
- 2. Narrative Statement.
- 3. Figure 1, Channel Allocation Study for Ch. 299A. from the Requested Reference Coordinates.
- 4. Figure 2, Allowable Area Map for Ch. 299A.

DECLARATION

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an engineer in the firm of Mullaney Engineering, Inc., and that firm has been retained by Warga Broadcasting L.L.C., to prepare an engineering statement in support of a Petition to Amend the FM Table of Assignments.

All facts contained herein are true of my own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

John J. Willaney

Executed on the 20th day of Nebraska 1998.

ENGINEERING EXHIBIT EE-RM:

WARGA BROADCASTING L.L.C. PACIFIC JUNCTION, IOWA ALLOTMENT OF FM CHANNEL 299A

NARRATIVE STATEMENT:

I. GENERAL:

This engineering statement has been prepared on behalf of Warga Broadcasting L.L.C. The purpose of this statement is to support a request that the FM Table of Assignments be amended to allot Ch. 299A at Pacific Junction, Iowa, which is located in Mills County.

It should be noted that Channel 299A would be the First Local Service to be licensed to Pacific Junction, Iowa.

It should also be noted that the area in question is <u>not</u> within 290 kilometers (180 miles) of a U.S. Border and, therefore, foreign concurrence is <u>not</u> required.

II. ENGINEERING DISCUSSION:

A. Proposed Site:

The following geographic coordinates are for a special reference point which is 4.5 kilometers (2.8 miles) north of Pacific Junction, Iowa:

Latitude: 41° 03′ 25″ Longitude: 95° 46′ 50″ The proposed site will provide an unobstructed view of the City of License, Pacific Junction, Iowa and is located close enough to serve the entire community with the required 3.16 mV/M contour.

B. Channel Allocation Study:

Figure 1 is a Channel Allocation Study from the Special Reference Point proposed herein which indicates the required separation in kilometers to known Licenses, Construction Permits, Allocations, pending Applications, and pending Rule Makings. From this study it can be determined that the proposed special reference point exceeds all of the minimum separations.

It should be noted that the minor short spacing to the licensed site of KMAJ at Topeka, KS, is within the 0.5 KM tolerance provided for in the rules. KMAJ also holds a CP which after its implementation will make it possible to locate the proposed tower for Ch. 299A in downtown Pacific Junction.

As a counter proposal in MM Docket 96-95, it was proposed to allot Channel 299A in lieu of 295C2 to Plattsmouth, Nebraska. However, in the Report and Order released October 13, 1998, the counter proposal involving Ch. 299A was denied.

Figure 2 is a map which illustrates these restrictions and the resulting area in which the tower site must be located.

C. Public Interest Showing:

Operation of a maximum Class A FM facility from the special reference point proposed herein will result in the 60 dBu contour encompassing 367,700 persons (1990 census).

Based upon the above, Warga Broadcasting believes that the requested channel substitution is in the Public Interest and should therefore be granted by the Commission.

III. SUMMARY:

Warga Broadcasting L.L.C. requests that the FM Table of Assignments be amended to allot FM Channel 299A at Pacific Junction, Iowa.

City	Present	Proposed
Pacific Junction,	Iowa	299A

Warga Broadcasting believes that the proposed allotment of a Class A facility as the only Local Service assigned to Pacific Junction, Iowa, will Serve the Public Interest. If allotted Warga Broadcasting will promptly file an application.

November 20, 1998.

6hn J. Mallaney

299 A POLARIZATION RCAMSL NEW FR ERP (KW) TAAH PACIFIC JUNCTION IA US HOR PLN BM TILT (METER) (METER) 41.0325 95.4650 (D.MMSS) HORIZONTAL 6.000 0.000 100.0 VERTICAL 6.000 0.000 100.0

THE FOLLOWING CONTOURS ARE CALCULATED USING:

CALCULATED HAAT FROM TOPO DATA BASE ERP= 6.000 (KW) 7.8 (DBK) HAAT= 100.0 (METERS)

						AZIMUTE	I HAAT	HAAT	CONTOURS	(KM)
INTERFERING	DOME	STIC				DEGREES	(METERS)	(FEET)	70 DBU	60 DBU
	DBU	KM				0.0	82.8	271.8	14.5	25.9
CO CHANNEL	(40.0)	86.7				45.0	82.7	271.3	14.5	25.9
1ST ADJACENT	(54.0)	43.7				90.0	87.2	286.2	14.9	26.5
2ND ADJACENT	(80.0)	9.1				135.0	79.7	261.6	14.3	25.4
3RD ADJACENT	(100.0)	2.8				180.0	119.8	393.0	17.9	30.7
			SPECIAL	REFERENCE	POINT	225.0	105.0	344.4	16.6	28.9
PROTECTED	(60.0)	28.3				270.0	128.5	421.7	18.5	31.6
						315.0	114.2	374.7	17.5	30.1
CITY GRADE	(70.0)	16.2								
						AVER#	AGE 100.0	328.1	16.2	28.3

EST SITE ELEVATION: 325.8 m.; 1068.9 ft. EST RAD CENTER AGL: 96.0 m.; 314.9 ft. RAD CENTER A.M.S.L.: 421.8 m.; 1383.8 ft.

AZIMUTH LONG ERP (KW) HAAT D MAP LAT IR TC R ST C (D.MMSS) FILE NUMBER CITY FROM TO CALL STS REL CHN DIST RSEP RSEP I HORZ VERT (M) A ITEM (KM) (KM) (KM) 242.6 62.1 KEZG LIC BLH810721AA Lincoln NE A 40.4338 96.3649 2ND 297C1 100.H100.V 168 79.2 75. 351.0 170.9 KMAPFM CP BPH970612MJ Castana IA A 42.0205 95.5921 1ST 298C3 25.H 25.V 100 110.0 89. 182.8 2.7 KMAJFM CP BPH970424ID Topeka KS A 38.5715 95.5443 CO 299C 100.H100.V 301 233.7 226. Α1 183.0 2.9 KMAJFM LIC BLH861103KC Topeka KS A 39.0134 95.5458 CO 299C 100.H100.V 370 Α 225.8 226. 332.5 152.5 KOTDFM ADD Plattsmou NE A 41.0528 95.4815 CO 299A RM8838 H 4.3 115. **COMMENT**Counterproposal ... DENIED **DOCKET**96-95 273.5 91.5 KSYZFM LIC BLH821112AO Grand Isl NE A 41.0913 98.4338 CO 299C1 100.H100.V 273 247.8 200. 12.4 192.8 KICDFM CP BPH970825IC Spencer IA A 43.0957 95.0846 CO 299C1 100.H100.V 87 240.0 200. 12.4 192.8 KICDFM LIC BLH7197 Spencer IA A 43.1000 95.0845 CO 299Cl 100.Hl00.V 94 240.1 200. 67.5 248.4 KKRF CP IA A 41.3025 94.1806 1ST 300C3 12.H 12.V 144E BPH951031IC Stuart 133.6 89. 317.6 137.0 KWPNFM LIC BLH960612KZ West Poin NE A 41.4706 96.4039 1ST 300C2 50.0H50.0V 97 110.3 106.

THERE WERE 0 AM STATIONS WITHIN 6.43 KM (4 MI) OF THE FM REFERENCE COORDINATES

CHANNEL 299A ALLOCATION STUDY

WARGA BROADCASTING L.L.C. PACIFIC JUNCTION, IOWA

MULLANEY ENGINEERING, INC. GAITHERSBURG, MARYLAND

FIGURE 1

NOVEMBER 1998

